

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ROBERTO DURAND,

Plaintiff

v.

RUEBUART, *et al.*,

Defendant

Case No. 3:21-cv-00415-MMD-WGC

ORDER

I. DISCUSSION

On September 13, 2021, Plaintiff, an inmate in the custody of the Nevada Department of Corrections ("NDOC"), submitted a civil rights complaint under 42 U.S.C. § 1983 and filed an application to proceed *in forma pauperis*. (ECF Nos. 1-1, 1). Plaintiff's application to proceed *in forma pauperis* is incomplete. Plaintiff has not submitted a financial certificate or an inmate account statement for the previous six-month period with his application.

Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to begin a civil action in this Court may apply to proceed *in forma pauperis* in order to file the civil action without prepaying the full \$402 filing fee. To apply for *in forma pauperis* status, the inmate must submit all three of the following documents to the Court:

- (1) a completed **Application to Proceed in Forma Pauperis for Inmate**, this Court's approved form (i.e. pages 1 through 3 with the inmate's two signatures on page 3),
- (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official (i.e. page 4 of this Court's approved form), and
- (3) a copy of the **inmate's prison or jail trust fund account statement for the previous six-month period.**

Accordingly, the Court denies Plaintiff's application to proceed *in forma pauperis* (ECF No. 1) without prejudice because the application is incomplete. The Court will grant

Plaintiff a **one-time extension** to file a fully complete application to proceed *in forma pauperis* containing all three of the required documents. Plaintiff will file a fully complete application to proceed *in forma pauperis* on or before **November 15, 2021**. Absent unusual circumstances, the Court will not grant any further extensions of time. If Plaintiff does not file a fully complete application to proceed *in forma pauperis* with all three required documents on or before **November 15, 2021**, this case will be subject to dismissal without prejudice for Plaintiff to file a new case with the Court when Plaintiff is able to acquire all three of the documents needed to file a fully complete application to proceed *in forma pauperis* or pays the full \$402 filing fee.

A dismissal without prejudice means Plaintiff does not give up the right to refile the case with the Court, under a new case number, when Plaintiff has all three documents needed to submit with the application to proceed *in forma pauperis*. Alternatively, Plaintiff may choose not to file an application to proceed *in forma pauperis* and instead pay the full filing fee of \$402 on or before **November 15, 2021** to proceed with this case.

The Court will retain Plaintiff's civil rights complaint (ECF No. 1-1) but the Court will not file the complaint unless and until Plaintiff timely files a fully complete application to proceed *in forma pauperis* with all three documents or pays the full \$402 filing fee.

II. CONCLUSION

For the foregoing reasons, IT IS ORDERED that Plaintiff's application to proceed *in forma pauperis* (ECF No. 1) is denied without prejudice to file a new fully complete application to proceed *in forma pauperis* with all three documents.

IT IS FURTHER ORDERED that the Clerk of the Court will send Plaintiff the approved form application to proceed *in forma pauperis* by an inmate, as well as the document entitled information and instructions for filing an *in forma pauperis* application.

IT IS FURTHER ORDERED that on or before **November 15, 2021**, Plaintiff will either pay the full \$402 filing fee for a civil action (which includes the \$350 filing fee and the \$52 administrative fee) or file with the Court:

(1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this

1 Court's approved form (i.e. pages 1 through 3 of the form with the inmate's two
2 signatures on page 3),

3 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail
4 official (i.e. page 4 of this Court's approved form), and

5 (3) a copy of the **inmate's prison or jail trust fund account statement for the**
6 **previous six-month period.**

7 IT IS FURTHER ORDERED that, if Plaintiff does not file a fully complete
8 application to proceed *in forma pauperis* with all three documents or pay the full \$402
9 filing fee for a civil action on or before **November 15, 2021**, this case will be subject to
10 dismissal without prejudice for Plaintiff to refile the case with the Court, under a new case
11 number, when Plaintiff has all three documents needed to file a complete application to
12 proceed *in forma pauperis* or pays the the full \$402 filing fee.

13 IT IS FURTHER ORDERED that the Clerk of the Court will retain the complaint
14 (ECF No. 1-1) but will not file it at this time.

15 DATED: September 15, 2021

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17 UNITED STATES MAGISTRATE JUDGE